

AMENDED IN SENATE JUNE 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 303

Introduced by ~~Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Koretz, Maze, Nation, Tran, Vargas, and Yee)~~ Assembly Member Calderon

February 9, 2005

~~An act to amend Sections 313 and 313.5 of the Business and Professions Code, relating to consumer affairs. An act to amend Section 9880.1 of the Business and Professions Code, relating to automotive repairs.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 303, as amended, ~~Committee on Business and Professions Calderon. Consumer affairs: electronic library. Automotive repair dealers.~~

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act defines various terms for the purposes of its provisions, including the terms "motor vehicle" and "customer." A violation of the act is a crime.

This bill would define the term "motor vehicle" to include vehicles used to transport passengers that are powered by electricity, hydrogen, or other alternative energy sources. The bill would also revise the definition of the term "customer" to include an insurer if certain conditions are satisfied.

By expanding the definitions of “motor vehicle” and “customer” under the Automotive Repair Act, the bill would create new crimes and impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law creates the Department of Consumer Affairs, with various powers and duties relative to the consumer protection and the regulation of certain professions and vocations. Existing law requires the Director of Consumer Affairs to establish a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems, and to periodically publish a bibliography of available consumer information.~~

~~This bill would require the director to also make the library and bibliography available electronically or on the Internet.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9880.1 of the Business and Professions
- 2 Code is amended to read:
- 3 9880.1. The following definitions apply for the purposes of
- 4 this chapter:
- 5 (a) “Automotive repair dealer” means a person who, for
- 6 compensation, engages in the business of repairing or diagnosing
- 7 malfunctions of motor vehicles.
- 8 (b) “Chief” means the Chief of the Bureau of Automotive
- 9 Repair.
- 10 (c) “Bureau” means the Bureau of Automotive Repair.
- 11 (d) “Motor vehicle” means a passenger vehicle required to be
- 12 registered with the Department of Motor Vehicles, all other
- 13 vehicles used to transport passengers that are powered by
- 14 electricity, hydrogen, or other alternative energy sources, and all
- 15 motorcycles whether or not required to be registered by the
- 16 Department of Motor Vehicles.

1 (e) "Repair of motor vehicles" means all maintenance of and
2 repairs to motor vehicles performed by an automotive repair
3 dealer including automotive body repair work, but excluding
4 those repairs made pursuant to a commercial business agreement
5 and also excluding repairing tires, changing tires, lubricating
6 vehicles, installing light bulbs, batteries, windshield wiper
7 blades, and other minor accessories, cleaning, adjusting, and
8 replacing spark plugs, replacing fan belts, oil, and air filters, and
9 other minor services, which the director, by regulation,
10 determines are customarily performed by gasoline service
11 stations.

12 No service shall be designated as minor, for purposes of this
13 section, if the director finds that performance of the service
14 requires mechanical expertise, has given rise to a high incidence
15 of fraud or deceptive practices, or involves a part of the vehicle
16 essential to its safe operation.

17 (f) "Person" includes firm, partnership, association, limited
18 liability company, or corporation.

19 (g) An "automotive technician" is an employee of an
20 automotive repair dealer or is that dealer, if the employer or
21 dealer repairs motor vehicles and who for salary or wage
22 performs maintenance, diagnostics, repair, removal, or
23 installation of any integral component parts of an engine,
24 driveline, chassis or body of any vehicle, but excluding repairing
25 tires, changing tires, lubricating vehicles, installing light bulbs,
26 batteries, windshield wiper blades, and other minor accessories;
27 cleaning, replacing fan belts, oil and air filters; and other minor
28 services, which the director, by regulation, determines are
29 customarily performed by a gasoline service station.

30 (h) "Director" means the Director of Consumer Affairs.

31 (i) "Commercial business agreement" means an agreement,
32 whether in writing or oral, entered into between a business or
33 commercial enterprise and an ~~automobile~~ *automotive* repair
34 dealer, prior to the repair which is requested being made, which
35 agreement contemplates a continuing business arrangement
36 under which the ~~automobile~~ *automotive* repair dealer is to repair
37 any vehicle covered by the agreement, but does not mean any
38 warranty or extended service agreement normally given by an
39 ~~automobile~~ *automotive* repair facility to its customers.

(j) “Customer” means the person presenting a motor vehicle for repair and authorizing the repairs to that motor vehicle. “Customer” shall not mean the automotive repair dealer providing the repair services or an *employee, agent, or person acting on behalf of the dealer*. “Customer” shall not mean an insurer involved in a claim that includes the motor vehicle being repaired or an ~~employee or~~ agent, or a person acting on behalf of the ~~dealer or~~ insurer, *unless the owner of the motor vehicle being repaired has, after being advised of the consumer protections set forth in Section 758.5 of the Insurance Code, authorized the insurer to act on behalf of the owner.*

SEC. 2. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1. Section 313 of the Business and Professions Code is amended to read:~~

~~313. The director shall provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems. The director shall also make this library available electronically or on the Internet in a manner that does not violate the copyright or other reserved rights of the materials in the library.~~

~~SEC. 2. Section 313.5 of the Business and Professions Code is amended to read:~~

~~313.5. The director shall periodically publish a bibliography of consumer information available in the department library and elsewhere. The director shall also make the bibliography available electronically or on the Internet. The bibliography shall be sent to subscribers upon payment of a reasonable fee therefor.~~